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10/562,138

12/23/2005

Bengt Holmen

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EXAMINER

MISA, JOAN D

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/562,138 | Applicant(s) HOLMEN, BENGT | |
| | Examiner JOAN D. MISA | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

Claim 1 is objected to because of the following informality: in line 1, the phrase "to move one a ground" is written awkwardly. For the purposes of this examination, the examiner considers "one" to read as "on". Appropriate correction is required.

Claims 10 and 18 are objected to because of the following informality: the phrase "at least one of manuals, pneumatically" is unclear. For the purposes of this examination, the examiner considers "at least one of manuals, and pneumatically" to read as "at least one of manually and pneumatically". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Matousek et al. (5,797,793), hereafter Matousek.

Regarding claim 1, Matousek discloses a spreader (66) arranged to move on a ground for spreading crop residues over the ground behind the spreader, across the width that considerably exceeds the width of the spreader, the spreader comprising:

a wind deflector (Figure 5, windshield or curtain 154) upon movement of the spreader prevents headwinds and/or lateral winds from affecting the spreading of the crop residues across the spreading width (column 9, lines 59-62).

Regarding claim 2, Matousek discloses the spreader of claim 1, connected to the rear end of a combine harvester (10) for spreading the crop residues exiting from a cutter incorporated in the combine harvester (partially shown in Figure 7), wherein said spreader includes several spreader wings (Figure 3, wing or vane 130) pivotally mounted on said spreader to define the desired spreading width, and wherein said wind deflector (Figure 5, 154) is connected to said spreader (66) or to the rear end of the combine harvester (10) (column 9, lines 54-58 "mount 152 is releasably attached to the housing 68" of spreader 66, which is still considered the rear end of the combine harvester 10).

Regarding claim 3, the spreader of claim 1, wherein said wind deflector (154) projects essentially horizontally laterally, at least in one direction away from the spreader or the combine harvester (as shown in Figure 5).

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Regarding claim 4, the spreader of claim 1, wherein said wind deflector (154) includes at least two sections (located on the left hand side and another on the right hand side), connected to the spreader (66) or the combine harvester (10) on both sides thereof and which project laterally therefrom in opposite directions.

Regarding claims 11 and 12, claims 11 and 12, which both depend on claim 2, recite substantially similar limitations to claims 3 and 4, respectively, and are therefore rejected using the same art and rationale set forth above.

Regarding claim 13, claim 13, which depends on claim 3, recites substantially similar limitations to claim 4 and is therefore rejected using the same art and rationale set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 10, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek, as applied to claim 1 above, and further in view of Van Der Lely (3,478,499).

Regarding claim 5, Matousek discloses the spreader of claim 4, except wherein said sections (154) are pivotally connected to the associated side of the spreader (66) or the combine harvester (10) and is controlled jointly or individually between an operative position, wherein they project laterally, and a position of rest and transportation, wherein they do not project laterally. Van Der Lely teaches that it is old and well known in the harvesting art for an implement (Figure 1, mowing table 3) comprising two sections (4) to be pivotally connected to a combine harvester and controlled jointly between an operative position, wherein the sections project laterally (see Figure 1), and a position of rest and transportation

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(see Figures 3 and 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spreader wind deflector sections of Matousek to be pivotally connected to the combine harvester as taught by Van Der Lely since it is old and well known in the harvesting art to allow implements having relatively large widths to be pivot between an operative position and a transportation position and the predictable result is a more adaptable combine harvester.

Regarding claim 6, the combination of Matousek and Van Der Lely discloses the spreader of 5, wherein said sections (154 of Matousek) are controllable either to be folded essentially vertically between an essentially horizontal, lower operative position (as shown in Figure 5 of Matousek equivalent to Figure 1 of Van Der Lely) and an essentially vertical upper position of rest and transportation (as shown in Figures 3 and 5 (of Van Der Lely), or are controllable for pivotal movement essentially horizontally between an essentially horizontal operative position and an equally essentially horizontal position of rest and transportation.

Regarding claim 10, the combination further discloses the spreader of claim 5, wherein control of the sections is effected at least one of manually and pneumatically (refer to column 1, Abstract, lines 30-33 and column 7, lines 6-19).

Regarding claims 15 and 16, claims 15 and 16, individually, recite substantially similar limitations to claim 8, as will be discussed below, and is therefore rejected using the same art and rational set forth above.

Regarding claim 18, claim 18 recites substantially similar limitations to claim 10 and is therefore rejected using the same art and rational set forth above.

Claims 7, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek and Van Der Lely, as applied to claims 5 or 6 above, and further in view of Halford et al. (5,021,030).

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Regarding claim 7, the combination of Matousek and Van Der Lely discloses the spreader of claim 5, except wherein in their operative position said sections (154) are supported on the ground by supports such as wheels, runners and the like positioned at the outer free section ends. Halford et al. teaches the use of ground supports (includes metal frame 20 and wheels 30, 31) to provide support to a spreader of a combine harvester. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spreader of the combination to include ground supports to the sections as taught by Halford et al. in order to better maintain the position of the sections.

Regarding claim 14, claim 14 recites substantially similar limitations to claim 7 and is therefore rejected using the same art and rationale set forth above.

Regarding claim 17, claim 17 recites substantially similar limitations to claim 8 and is therefore rejected using the same art and rationale set forth above.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek.

Regarding claim 8, Matousek discloses the spreader of claim 4, wherein the sections (154) are designed as essentially rectangular screens (as shown in Figure 5), which extend essentially vertically in the operative position, and which project rearwards laterally from the spreader (66) or the combine harvester (10). Although Matousek fails to disclose that the sections project obliquely outwards from the spreader or the combine harvester it would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the sections of the wind deflector (154) to project obliquely outwards from the spreader of the combine harvester since it well within the skill of those in this art to position the wind deflector at whatever angle would best serve the purpose of deflecting the wind, and it is old and well known to optimize the design of a device for its intended purpose.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek, as applied to claim 8 above, and further in view of Pearson (3,145,519)

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Regarding claim 9, Matousek discloses the spreader of claim 8, except wherein the sections of the wind deflector are interconnected by way of a section, the operative position forms an upper, essentially horizontally extending section so as to form a funnel-like, hood-shaped extension of the spreader. Pearson teaches that it is old and well known in the harvesting art for a deflector (Figures 1-2, discharge chute 25) to comprise of three sections that form a funnel-like, hood-shaped configuration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wind deflector of Matousek to have an upper essentially horizontally extending section forming a funnel-like, hood shaped configuration with the other two sections, as taught by Pearson, since such deflector configuration is old and well known in the harvesting art and the predictable result is a more stable deflector.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to references cited in PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOAN D. MISA whose telephone number is (571)270-3745. The examiner can normally be reached on Monday - Friday, 8:00am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/
Supervisory Patent Examiner
Art Unit 3671

JDM 3/26/2009